

Remarks

Claims 3, 11 and 17 are amended herein for clerical errors. Claims 1-26 remain pending in the Application. No new matter has been added due to the Amendments herein.

Rejection under 35 U.S.C. §101

In the present Office Action, Claims 1-9 and 22-26 are rejected under 35 U.S.C. §101 because the claimed invention is directed toward non-statutory subject matter. Specifically, Claims 1-9 and 22-26 are rejected because the claimed data structure is disposed in a computer readable memory, which is not statutory.

Page 2 of the Present Office Action states, at lines 16-17, “A data structure is only statutory when it is functional. For example, if the data structure were to increase efficiency, then that data structure would be statutory.”

Further, page 3 of the Office Action states, at lines 8-9, “Data structures are only statutory when they are stored within a memory. The current claim language claims that a data structure is disposed in a computer readable memory, not stored. Appropriate corrections are required.”

On page 3 of the Office Action, an alternate claim form is proposed. However, Applicants believe this alternate claim form is equivalent to their current claim form, such that the Examiner’s claim form would possibly create prosecution history estoppel for no reason, other than to replace Applicants’ current claim language with equivalent, but different, claim language.

Specifically, Applicants respectfully submit that data disposed in a computer readable memory is clearly supported in the Specification analogous to data embodied in computer readable media.

Although the Examiner refers to MPEP 2106.01 to support his rejection, Applicants have reviewed this section and cannot find any prohibition against the format of their claims 1-9 and 22-26.

As such, Applicants respectfully submit that the rejection of Claims 1-9 and 22-26 under 35 U.S.C. §101 is incorrect and should be withdrawn.

Rejection under 35 U.S.C. §112

Claims 3, 11 and 17

In the Office Action, the Examiner rejected Claims 3, 11 and 17 under 35 U.S.C. §112, second paragraph, as being indefinite. “[T]he claims feature the phrase “...the receivability of said data structure to said client device is activated and deactivated...””

Applicants respectfully submit that Claims 3, 11 and 17 are amended herein. As such the rejection of Claims 3, 11 and 17 under 35 U.S.C. §112, second paragraph, is moot.

Rejection under 102(e)

Claims 1-26

In the Office Action, Claims 1-26 are rejected under 35 U.S.C. §102(e) as being anticipated by Tahtinen et al. (2001/0046228). Applicants have reviewed Tahtinen et al. and respectfully state that Tahtinen et al. do not anticipate the present invention for the following rationale.

Applicants respectfully state that Independent Claim 1 (Independent Claims 10, 16 and 22 includes similar features), recites the features “A data structure disposed in a computer readable memory for providing information corresponding to a geographic location, said data structure comprising: a first data field for identifying said location; and a second data field associated with said first data field for containing said information, wherein a user can access said information” (emphasis added).

“A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” /Verdegaal Bros. v. Union Oil Co. of California/, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

Regarding Tahtinen et al., Applicants have reviewed Tahtinen et al. and do not understand Tahtinen et al. to teach or anticipate a data structure disposed in a computer readable memory for providing information corresponding to a geographic location, said data structure comprising: a first data field for identifying said location; and a second data field associated with said first data field for containing said information, wherein a user can access said information (emphasis added).

Applicants submit that it is recognized that that, although the claims are read in light of the specification, limitations appearing in the specification are not read into the claims. However, it is also recognized that the claims are read as one of ordinary skill in the art would read them. Furthermore, it is recognized that an Applicant can be his or her own lexicographer, as long as the meaning of a term is not repugnant to the usual meaning of the term. Moreover, if extrinsic reference sources evidence more than one definition for the term, the intrinsic record (e.g., the disclosure of the instant application) must be consulted to identify which of the different possible definitions is most consistent with Applicants' use of the term – where there are several common meanings for a claim term, the patent disclosure serves to point away from the improper meanings and toward the proper meanings.

It is respectfully submitted that “geographic location” has an ordinary meaning in the art, and that meaning is consistent with the meaning

provided throughout the instant application. That is, as defined in the art as well as in the instant application, every “geographic location” has a unique positional data, e.g., latitude and longitude (as opposed to a virtual location).

In the “Response to Arguments” included in the final rejection (please see page 10 of the present Office Action), the Examiner contends that the present claims are anticipated because “[T]he examiner disagrees because the claims simply refer to a location and a virtual reality location is a location.” Applicants respectfully disagree.

Applicants respectfully point out that Claims 1, 10, 16 and 22 recite the location is a geographic location.

Applicants respectfully submit that there are at least three independent but synergistic arguments that support Applicants’ position that the claims recite geographic location that is distinctly different from a virtual location:

1. Claims are read as one of ordinary skill in the art would read them. Applicants believe that “geographic location” is a term of art, understood by those in the art as having an actual property as opposed to a virtual reality location. Thus, even absent a definition of the term in the specification, the term is understood by those in the art as referring to the physical and not virtual world.

2. Applicants can be their own lexicographer, as long as the meaning of a term is not repugnant to the usual meaning of the term. At least page 56 (lines 5-15) of the instant application provides the Applicants’ definition of

the term, and that definition is not repugnant to the usual meaning of the term.

3. Even if there is some question with regard to the usual meaning of the term, the intrinsic record (e.g., the disclosure of the instant application) must be consulted to identify which of the different possible definitions is most consistent with Applicants' use of the term. Again, please see at least page 56 (lines 5-15) of the instant application.

Applicants respectfully assert that Tahtinen et al. do not anticipate a geographic location. Instead, as stated on page 10 of the present Office Action, and as the Applicants also understand, Tahtinen et al. anticipates the virtual world. Because Tahtinen et al. fails to teach at least one element recited in Claims 1, 10, 16 and 22, Applicants respectfully contend that Tahtinen et al. does not anticipate Claims 1, 10, 16 and 22. Because Claims 2-9, 11-15, 17-21 and 23-26 depend on Claims 1, 10, 16 and 22 and recite additional limitations, Applicants also contend that Tahtinen et al. does not anticipate Claims 2-9, 11-15, 17-21 and 23-26.

Thus, Applicants respectfully submit that an essential element needed for a *prima facie* rejection of Claims 1-26 is missing, and respectfully submit that the rejection under 102(e) is overcome and that Claims 1-26 are allowable.

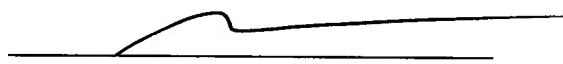
Conclusion

In light of the above amendments and remarks, Applicants respectfully request allowance of Claims 1-26.

The Examiner is invited to contact Applicants' undersigned representative if the Examiner believes such action would expedite resolution of the present application.

Respectfully submitted,
Wagner Blecher LLP

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John P. Wagner, Jr.
Reg. No. 35,398

WESTRIDGE BUSINESS PARK
123 WESTRIDGE DRIVE
WATSONVILLE, CALIFORNIA 95076
(408) 377-0500